IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6958 OF 2005

Bernie Corerar, .. Applicant.
Vs
State of Maharashtra & Anr. .. Respondents

Smt. N.S.Nappinal, for the applicant.
Mr R.Y.Mirza, APP, for ther espondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 31st July, 2006

P.C.:

1. Heard the learned counsel for the parties.

2. By this application, the applicant has prayed for dispensing with his personal appearance in Special Case No.84 of 2004 before the learned Sessions Judge, 50th Court, Greater Mumbai, Mumbai. Ms.Nappinal, learned counsel for the appellant, has also placed on record a copy of the undertaking dated 27.7.2006 duly affirmed by the applicant. A copy of the undertaking is taken on record and the original is returned to the applicant to be filed before the concerned Magistrate. Keeping the undertaking given by the applicant in view and considering the judgment of this Court in Bhaskar Sen Vs. State of Maharastra, 2004(4) ALL M. R. 606, liberty is granted to the applicant to apply seeking exemption afresh. If such an application along with the undertaking is filed before the trial Court, same may be considered in the light of the observations

made by this court in Bhaskar Sen case and in particular paragraph 10 thereof. It is always open for the court to issue necessary direction to secure presence of the accused if it becomes indispensible and/or his absence is likely to impede the progress of the case. It is needless to mention that the applicant can file an application before the learned Magistrate, as aforestated, through his advocate. Keeping in view that the applicant is a permanent resident of village Tuticorin, in the State of Tamil Nadu, the Court shall, as far as possible, give atleast a week's time whenever his presence is required before the court for any purpose whatsoever to enable him to make proper arrangement for coming down to Bombay. The application is disposed of.

(D.B.BHOSALE,J.)